

APPEAL NO. 030688
FILED APRIL 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 3, 2003. With respect to the disputed issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable repetitive trauma injury to her right upper extremity with a date of injury of _____. In addition, the hearing officer determined that the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified her employer pursuant to Section 409.001. The carrier appeals on sufficiency of the evidence grounds, arguing that the evidence supports that the claimant had a preexisting injury or an ordinary disease of life, and that the claimant nevertheless did not timely report her injury to her employer. The claimant responds, urging that the hearing officer be affirmed.

DECISION

Affirmed.

We have reviewed the complained-of determinations. Whether the claimant sustained a compensable injury and whether she gave timely notice to her employer are issues for the hearing officer as fact finder to resolve. The hearing officer made a finding of fact that "[c]laimant's job duties as a sewing machine operator did require repetitive, physically traumatic use of her right upper extremity." In addition, the hearing officer found that the date of injury was _____, and that the claimant reported the injury to her employer on August 21, 2002, within 30 days of when she knew or should have known her injury might be work related. Section 409.001(a)(2). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer was acting within her province as the fact finder in resolving the evidence in favor of the claimant and nothing in our review of the record demonstrates that the hearing officer's determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **ACE USA/OR** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge